#### HAINS SPEAKS FOR HIMSELF

JENKINS DENIES PARTICIPA-TION IN BROTHER'S CRIME.

Murder Not Planned, He Says, and He Tried to Avoid Meeting With Annis A Strong Witness-Mrs. Hains's charges and the "Dear Billy" Letter.

Thornton Jenkins Hains, on trial in the Supreme Court in Flushing for complicity in the murder of William E. Annis, yesterday took the stand in his own behalf and for four hours under direction of the quesnons of John F. McIntyre, chief counsel for the defence, told his story of the shootg and of the events which preceded it. His direct examination was unfinished

when court adjourned, and it is likely that he will be on the stand much of to-day. He told his story with readiness and with considerable skill. For the most part he quickly adapted himself to the exigencies of court procedure, and only in his vivid earnestness did he betray his personal interest in the reception of his story This same earnestness went far toward making his testimony convincing. His manner was quiet and generally his dicion showed the traces of his training as a writer. While denying emphatically considerable of the testimony presented against him by the State's witnesses, he did not allow himself to betray any animosity against those whose statements he was contradicting. Altogether, the defence's prophecy that the prisoner would

e his own strongest witness was fulfilled. In brief, Thornton Hains denied that he had gone to the Bay Side Yacht Club with the purpose of assisting his brother in the killing, of Annis and even that he clubhouse. He told of the meeting with knew that Annis was at the yacht club. He went down to look at real estate and took with him the brother whom he had been caring for since the discovery of Claudia Hains's conduct unhinged the between the two men was probable he tried to get his brother away. Then when the shooting was done he drew his own revolver to protect his brother from those who were rushing to the float. Much of his story had been told before other words, did you follow her toward the connected discourse.

The defendant took the witness chair

The defendant took the witness chair at 12:15, following his father. He said he was 42 years old and that fie was born in Washington, D. C., at the home of his grandfather, Admiral Jenkins. In September, 1896, he said, he married Mary Jones of Bensonhurst, who died three years ago in childbirth. The child Mary the defendant has cared for since.

He said he had built the breakwater at Portsmouth for the Government and

at Portsmouth for the Government and, turning to his sea life, said he first went to sea in 1879 as an apprentice on the schooner. Pharos at the age of 12 and now holds a varigator's license and has been caratain Pharos at the age of 12 and now holds a ravigator's license and has been cartain of nine vessels and mate of several others. He has been known as Caot. Hains, he said, on this account. The defendant said he had been engaged in writing for

magazines since about 1900.
Coming down to the history of the present trouble, the defendant said he had gone with his brother Peter to the Penn-sylvania station on October 20, 1907, to see him off for the Philippines and he did not see the Captain again until May 31, 1908.

on that occasion? A. I was awakened between 8 and 9 o'clock on that Sunday morning by a crash on my door and rush of feet unstairs. I leaned out of bed. ran into the dining room, and a man tore into y room-my brother, Peter-and he had his hands in the air like that [the defendant raised his hands above his head; and said I apologize. I broke your door-I apologize. It is all right, Thorny." I said "My God! What has happened to you? What are your doing here in America?" I thought he was in the South Pacific. He said "I

he then went to Fort Hamilton with the Captain at the latter's request to see their father, Gen. Hains. At the fort the defendant said his brother sat down with his heads in his hands and would keep repeating what his wife had told him.

That night the Captain sat down.

repeating what his wife had told him.

That night the Captain sat down on the porch and kept repeating. "I can't think, I am tired out." Then Mr. Bennett, the lawyer, came and the General, the defendant, Capt. Hains and the lawyer all went into the house—the Captain's house. Gen. Hains took the lamp from the table and went up stairs. He came back two or three minutes later with Mrs. Claudia Hains.

going home!" very decidedly he three my arm off, like that, and folded his arms again and kept looking. At that time the Captain was standing about six feet behind Mrs. Annis on the dock, not on the float.

I went a short distance back in the direction of the clubhouse—I supposed my brother was following me. I had said "I am going home" in such a decided way, with the inference that I would leave him

His dramatic ability was strikingly shown in his imitation of his brother's distraught manner. That night, the witness said. he took the Captain home with him at the General's request. Mr. McIntyre led through a statement of the condition of the Captain during the next four days, in which many of the symptoms already much rehearsed in the present trial figured and then the defendant told of efendant took the Captain to town with

We were walking along from East Vineteenth street into Broadway when Nineteenth street into Broadway when Connie suddenly stopped, got rigid like that [illustrating] and said 'Annis.' He was looking across the street. I saw a man across the street that looked like Mr Annis. The Captain trembled all ever. I took him by the arm and pushed him around. 'That is not Annis,' I said, come away. That is not Annis at all,' and led him down to the Fourteenth street subway. On the way home he said to

way. On the way home he said to I don't know what is the matter with

Broadway and Thirty-fourth street witness said there was another inci-t similar to that early in June.

he negotiations with Jesperson and te. the real estate men, were described the testimony of Mr. Jesperson on

Did you contemplate buying property

rs. Annis came into the court room with women friends in time to hear the endant's story of the shooting. She motionless, her lips contorted by a motionless, her lips contorted by a hounced sneer. Thornton Hains 2 M. ... 40° 12 M. ... 41° 3 P. M. .. 51° 1. ... 51°

chounced sneer. Thornton Hains obted over at her once in a while, but strayed no emotion in his face.

When he started for Bay Side that ternoon after the conversation with eaver the defendant said he did not now Annis was a member of the Bay de Yacht Club or that he would be at a Vide that afternoon.

side that afternoon.

e got to Bay Side a little before 2

fresh southerly winds.

For the District of Columbia, Delaware, Marytout of the train I saw a number of
toltowed by fair and decidedly colder; fresh
followed by fair and decidedly colder; fresh Southerly winds.

For western New York and western Pennsylvania, rain to-day and colder in the afternoon or at night; decidedly colder and fair to-morrow, tain that if we didn't find Jeaperson we

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could look at the lots, and if not that, at least we could get a good idea of the coun-try about there. I told the boy I wanted to look at some lots and asked him if he knew Jesperson. He said he did not.

Q. Did you ask the boy if he knew Anni

Q. Did you notice a stage at the station? . No. There were a number of rigs of various kinds, but most of them seemed to

. I never had seen or heard of Mrs. Annis. I didn't know there was such a person in the

The witness said Mrs. Annis since had been pointed out to him in the court

"At the time you were negotiating for the surrey did you see her get into any

"I didn't see her at all." The witness went on to deny having noticed the stage on the road or that he had said anything to the boy Skura about a stage. He said that when the surrey the negro waiter and with Birchfield as it has been told by the prosecution's witnesses, but said he did not ask either for Annis. "I never dreamed of Annis.—I never said a word about him," he said.

never said a word about him, While this young man [Birchfield] and I brother's mind. When he found that were talking, I noticed that my brother had Annis was at the club and that a meeting gotten out of the crowd and had started down toward the water. I said to this down to protect your brother? A. No. 1 young fellow, "Wait a minute!" I think that's all I said-and I went after my

brother, and caught up with him. piecemeal by other witnesses, but it was left to the defendant himself to put it in a connected discourse.

dock? A. There was no lady on that road while I was there. I walked with my brother down to the dock and stood around a few minutes. On the way down we met a young man of whom I asked if he knew where Jesperson was. He said he didn't know, but he might be around somewhere.

Well, after that this young man, whom I have since learned was Mr. Birchfield, came down on the wharf and spoke down to a stout man on the float -Mr. Stormand said here was a man looking for real estate and asked, in a joking sort of way, if he didn't want to make a sale. The other man said yes and spoke to me and said if he could be of any service he would be glad to give up the race. I told him not to do that because we already had begun with another agent and I didn't want him to give up his pleasure.

had talked there for some minutes and Mr. Birchfield suddenly called across to this lady, who I since learned was Mrs. Annis, and said, "How do you do, Mrs. Annis, and said, "How do you do, Mrs. Annis? Where is Billy?"—or "Billy is out there"—something, mentioning the name. I said to him, "Mrs. Annis? What Mrs. Annis?" He said, "That lady standing there." I said, "Wife of William E. Annis?" and he said, "Yes." I was very much

Mr. Darrin-I object to the astonish-Witness-I said nothing for a moment

then I asked him, "Is Annis around here?" He said, "Yes, he is out in one of those boats No. 7, right out there," pointing. boat was about 100 feet off the end of the dock

I waited about a minute, I was astonished. right." Then he said "Claudia has told me everything: she has confessed. She has had a baby by Annis." Connie's coat was unbuttoned, his vest was loose, his hat was off and his hair flying, and his face was white and drawn, and his mouth set. He eyes like glass and his head was been about as far as from here to that post or a little further, maybe, with his arms folded, looking. His face was pale, his eyes like glass and his head was been about as far as from here to that post or a little further. white and drawn, and his mouth set. He shook all over. I said "My God, don't tell me this!" And he replied "Don't sympathize with me, Thorny, help me—help me!" and I started back for the sure was paie, his eyes like glass and his head was bowed over slightly. I repeated, "Come on, let's go home. Jesperson is not here. I am going home, I'm not going to stay here,"

he defendant described the conduct of Captain at some length and on the started back for the surrey. Q. At that time did you know the Captain a revolver upon his person? A. I

with Mrs. Claudia Hains.

"The General put the lamp back on the table—it was the only light we had and we sat around the table," said the witness. "Mrs. Claudia Hains sat on the piano stool near the table." Thornton Hains went on to tell of the questions put to Mrs. Hains by the lawyer and of ther answers, embodied in her confession. His dramatic ability was strikingly shown.

Bis dramatic ability was strikingly shown.

Q. How did you approach the head of the runway? A. I waiked. Just as I got to the head of the runway I started down and had taken a step or two when I heard shots, one, two, three, four, five, six-like that. [The witness clapped his hands together rapidly. There was no pause between the first and second shots that I could hear. I looked down on the float. I saw my brother rise up from under the sail—the sail of Annis's boat, which was across the southtaking the Captain out on many long trips in the motor boat. Then some time during the first few days of June the during the first few days of June the cast corner of the float—and I saw a revolver captain to the float—and I saw a revolver captain the or pistol in his hand. I had never seen the police that he had received a letter deweapon before.

I started down the runway at the shots I saw Peter stand up with a gun, and, of course, I knew that he had been shooting,

Over most of the eastern half of the country it was cloudy. There was light snow in the Northwest. The pressure was high over the Atlantic States

and the extreme West and Northwest and low over the central States, with a centre over Minnest and the extreme West and Northwest and low over the central States, with a centre over Minnesta.

The witness went on to tell of his care his brother during the following weeks and said that he never saw the Captain said that he never saw the Captain over the central States, with a centre over Minnesta.

The temperature was above normal in nearly all parts of the country except the extreme Northwest, where a cold wave was advancing before the central States, with a centre over Minnesta. and the extreme West and Northwest and low

official thermometer, is shown in the annexed

1909 . 1909 . 1909 . 35° 6 P. M . . . 50° 37° 9 P. M . . . 47° 38° 12 Mid . . . 47° Lowest temperature, 30°, at 3 A. M. WASHINGTON FORECAST FOR TO-DAY AND TO-

For eastern New York, New England, eastern Pennsulvania and New Jersey, rain to-day; rai to-morrow: turning into snow and decidedly colder; fresh southerly winds.

For the District of Columbia, Delaware, Mary-

and naturally I supposed it was Annis. rushed down and saw a large man jump from somewhere—he looked like a sailorman. He gave a run toward the float, and as my brother turned around struck bins on the shoulder—and this gun—that pistol there, I suppose it was—fell out on the floor of the fleat, and I dashed in between just as he—it took only a fraction of a second— I jumped in and said: "Get back—get back! Don't hurt him." Another man, who I have since learned was Mr. Roberts, rushed down and picked up the gun. I don't know why Mr. Roberts pointed the gun at me, but as he drew it up I saw the muzzle pointed toward me, and as I saw that I jerked out my own gun and said: "Don't you shoot! Get back-get back!" I said: "Get an officer

brother!" Q. Did you point your pistol? A. Only at Roberts. I just waved it toward the

-you cannot hurt this man-he is my

Q. Did you intend to shoot Roberts? A. No: I never saw the man before. I didn't intend to shoot anybody. I was only protecting my brother.

Q. Did you take any part in the shooting or try to keep back those who would have saved Annis? A. The shooting was all over before I got there. There were several men a good deal nearer my brother than I

Q. Did you go down on the float to prevent anybody from interfering with the Captain shooting Annis? A. I did not. Q. (By Justice Crane) You say you did

not pull sour revolver until Roberts had picked up your brother's pistol? A. I Q. (By Mr. McIntyre) Did you go down to the float before your brother did? A. I

did not.
Q. Did you turn to your brother and beckon him to go down to the float? A. I did net.

The answer came very decidedly This was one of the points on which Mrs. Annis had testified, and the defendant looked over at her while making his answer.

Q. Did you put a revolver to the back of Mrs. Annie? A. I did not. Q. Did you say to her "Move and you'll get the same?" A. I did not. Q. Was Mrs. Annis on that float at any time? A. She was not. She was never off

the dock. Q. Did you tell Roberts you had come said I had jumped down to protect himhad jumped down off the dock on to the

Thornton Hains then described taking hold of his brother and leading him over to the upturned boats. He emphasized the "politeness" of Mr. Downs, who asked him to give up his revolver, telling him they could not have armed men around there—that it was a gentlemen's club.
He hesitated at first, he said, then gave
it up. "I was very much upset and I
took out an old pipe that I always smoke when I am nervous. I didn't have any tobacco, but I chewed the stem. Sometobacco, but I chewed the stem. Some-body said that they settled these things with their fists in his country. I said I guessed he was not an American. 'I'm just as sorry as you are for this,' I said, he is my brother.' I told Roberts, in effect, that I probably had saved him trouble—or saved his life, or something like that "

like that

like that."

On an interruption by Darrin Justice Crane said he thought the prisoner ought to be allowed to explain what he meant by this—if the Captain's pistol already had been knocked out of his hand before Thornton Hains drew his revolver.

"The Captain was crazy—I didn't know what he would do.—I was going to protect him from himself or anybody else. He might have a dozen more pistols or knives on him, for all I knew—I didn't know he had that one until the shooting."

"What did you mean when you said Stevens was 'not an American'?"

"I didn't mean anything particularly. I just said it. They use revolvers sometimes in America."

Mr. Darrin wanted this stricken out, and Justice Crane turned around in some surprise.

Do you mean that?" he asked of the District Attorney. "Well, I won't strike it out."
The defendant said that his brother did not speak after the shooting. When the policeman, Baker, came the defendant

I did not, and I did not know that a

DEAR BILLY: Do not come down Monday. All is over between Peter and me. He has found out everything and told me about it last night. You are to give me the money from the police court, as he does want any transaction with you. I am going to Boston and will send you my address. I want to see you very much. I am almost crazy. Good-by. CLAUDIA.

FIGHT FOR A PRISONER.

Lawyer and Detective Both Wanted Dr. Dadirrian's Alleged Blackmatter.

Through the arrest in Washington yesterday of William E. Beall on a bench warrant it came cut that he was indicted on December 1 last by the New York county Grand Jury on a charge of at- about it: tempted blackmail. It also became known that detectives have been on Beall's trail since December, 1907, when he was first arrested on a charge of attempting to blackmail Dr. M. K. Dadirrian, an Armenian physician who manufactures a drink.

At that time Dr. Dadirrian told the manding \$10,000 to save him from the Hunchakist, and later a supposed infernal machine which proved to be harmless. When Beall was arrested he said the complaint was made out of spite because he had a drink that was dri ving Light rain fell yesterday in the middle Atlan tic cause he had a drink that was dri ving States, the New England States, the east Dadirrian's out of the market. The Gulf States, Georgia and the Tennessee Grand Jury failed to indict Beall at that

Detective Bottie, who has been working on the case, went to Washington yesterand the extreme West and Northwest and low over the central States, with a centre over Minnesota.

The temperature was above normal in nearly all parts of the country except the extreme Northwest, where a cold wave was advancing before a high pressure central over the British Northwest. The lowest recorded was 10 degrees below zero in northern Montana and North Dakota. It was colder also west of the Rocky Mountains. In the Atlantic States, Ohio and Tennessee valleys. Guif States and from Texas northward into Nebraska it was warmer.

In this city there was light rain in the morning, then partially clearing; warmer; wind light to fresh southwest, shifting to southeast, average hundity, 76 per cent.; barometer, corrected to read to sea level, at 8 A. M., 30.21; 3 P. M., 30.15.

The temperature yesterday, as recorded by the official thermometer, is shown in the annessed. day to get Beall, who agreed to come back

Requiem Masses in Brooklyn Churches. A requiem mass for the victims of the earthquake was held yesterday in all the Italian churches in the Diocese of Brooklyn and there was a large attendance at all the services. Bishop McDonnell was at the Church of the Sacred Hearts of at the Church of the Sacred Hearts of Mary and Jesus on Degraw street, the congregation of which is largely com-posed of Sicilians. It is expected that more than \$10,000 will be realized for the relief fund from the collections in the Catholic churches in the Brooklyn diocese



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#### STANDARD OIL COMPANY WINS

FINE . STANDS.

The U. S. Supreme Court Declined to Review by Writ of Certiorari the Decision of the Federal Court of Appeals at Chicago Reversing Judge Landis.

WASHINGTON, Jan. 4.- The Supreme Court to-day declined to review by writ of certiorari the decision of the Federal opportunity of again presenting its case Court of Appeals for the Seventh Circuit to the court. in reversing Judge Landis's action in im-Oil Company for accepting rebates on oil dice. shipped from Whiting to Western and Southern points. The Government, at the direction of President Roosevelt, made Gas Down More than 27 Peints and a special effort to have reversed that portion of the decree of the lower court which held that each shipment, and not each car in each shipment as Judge Landis ruled, was a separate offence for which the maximum fine for rebating

could be imposed. The action of the court to-day was in effect an affirmance of the position taken by the Court of Appeals, although after the case goes back for a new trial before Judge landis with the conditions imposed the Government can probably bring the matter to the Supreme Court on appeal. In order to obtain a final decision on the question of what constituted a separate offence, not only in this case but as bearing on others that are pending, the Government endeavored to take a short cut in procedure, but the court to-day refused to comply.

No opinion accompanied the denial of the Government's petition for review.

This case originally was a prosecution by the Government of the Standard Oil Company of Indiana for violation of the Sherman law in accepting rebates. case was tried in the spring of 1907 in Chicago, the trial occupying six weeks. The indictment charged guilt on 1,462 counts. The defendant was charged with the shipment of 1,903 cars of oil over the Chicago Terminal Transfer and the Chicago and Alton Railway line from Whiting, Ind., to East St. Louis by way of Chappell, Ill, at the rate of 6 cents a hundred pounds, when the legal and published rate was 18 cents. The jury

found a verdict of guilty. Judge Kenesaw Mountain Landis im-"Take me too."
"Did you put on that gun and go to Bay Side to help, assist, abet, &c., your brother in the commission of a homicide?" "I did not, and I did not know that a homicide was to be committed."

When Gen. Hains was on the stand earlier in the day Mr. McIntyre got in evidence the "Dear Billy." letter, which the General said he believed had been given by Claudia to Thornton Hains to mail and that Capt. Hains had grabbed it out of his brother's hand and read it. The General first had seen the letter the Monday morning after the confession. This is the letter.

Dear Bully." Do not come down Montage The sees was appealed to the United.

The case was appealed to the United States Circuit Court of Appeals, which States Circuit Court of Appeals, which on July 22, 1908, set Judge Landis's fine aside with a caustic comment, asking Judge Landis whether he presumed to hold himself above the law. Judge Grosscup delivered the opinion. The court ruled that the assets of the defendant company had not been shown to exceed \$1,000,000 and that facts outside the record had been permitted to contribute to the decision to fix the fine at the enormous sum named by the trial he enormous sum named by the trial

Judge.
Mr. Bonaparte after this decision said that the case could not be reviewed by the United States Supreme Court, although he believed it ought to be, and that he expected the case to be tried again.

President Roosevelt had this to say

There is absolutely no question of the guilt of the defendant or of the excep-tionally grave character of the offence. The President would regard it as a grave miscarriage of justice if through any technicalities the defendant escaped punishment which would have unquestionably been meted out to any weaker defendant who had been guilty of such

offence."

The Government asked the Court of Appeals for a rehearing. This the Court refused. reaffirming its opinion given in overruling the trial court and using this strong language regarding the Gov-

this strong language regarding the Government's attorneys:

"Courts have a right to expect that counsel accustomed to practise in courts of review not only know the meaning of legal terms constantly in use in discussions and opinions of these courts but will not misuse such terms to spread misinformation respecting a judgment that in the nature of the case is bound to attract wide public attention."

This decision was given in November last. Mr. Bonaparte had been of opinion that he could not get the case reviewed by the Supreme Court, but later it came about that he did ask that court for a writ of certiorari to bring the record

about that he did ask that court for a writ of certiorari to bring the record before that tribunal for review. Yesterday's rejection of the petition without any comment followed. The case now stands where it did with the reversal of Judge Landis. It may be tried again.

Senator Foraker in His Seat. WASHINGTON, Jan. 4 .- Senator Forake of Ohio was in his seat when the Senate met to-day, having returned from Ohio, where he had been observing the progress of the Senatorial caucus. As soon as he appeared on the floor his Republican colleagues crowded around him. The Ohio Senator was kept busy apparently explaining what had happened in the Buckeye State. He seemed to be in splendid health and spirits.

Arrested for Shooting Post Office Inspector.

WASHINGTON, Jan. 4.-At the Post relief fund from the collections in the Catholic churches in the Brooklyn diocese on Sunday.

NO EXTRA CHARGE FOR IT.

Advertisements for THE SUN and THE EVENING SUN may be left-at any American District Messenger office in the city.

WASHINGTON, Jan. 4.—At the Post Office Department to-day information was received of the arrest of William A. Sorsby, who on Spetember 28 shot and killed Post Office Inspector Fitzgerald at Trenton, Miss. Sorsby was formerly assistant postmaster at Trenton. A shortage in his accounts, discovered by Inspector Fitzgerald, led to the shooting.

### 80 CENT GAS LAW UPHELD

Continued from First Page.

tion to the rule this case does not come

8. Any increase in the expense arising from the increased candle-power of the light demanded by the statutes was in-cluded substantially in the expenses of the year (1905) with reference to which the inquiry was made.

9. The provision in the acts requiring a certain pressure is unconstitutional.

The proof unquestionably shows great possible, if not probable, danger of explosion in the mains or other pipes if the pressure demanded were applied to them as they now are. To eliminate such danger would require strengthening all the mains and other pipes, which would involve an ex-penditure of many millions of dollars, upon which no return could be obtained at the rates prescribed by the acts.

The provision can be separated, however, from the rest of the statute and the balance thereof made valid. The pressure must be sufficient to produce a light of the candle-power mentioned in the acts. 10. If the court below is right in its con-struction of the penalties as to the amount. &c., such penalties are void, but are sep-

arable from the rest of the acts and the balance can be effectually carried out.

11. This is not a case for the valuation of good will. The complainant has in fact a substantial monopoly of the gas business DECISION AGAINST \$29,000,000 in the city of New York, and those who wish to use gas must take it from complainant. In this case, as there is no possibility of competition, there should be no allowance

for good will. 12. As it may possibly be that a practical experience of the effect of the acts by actual operation under them might prevent the complainant from obtaining a fair and just return upon its property used in its business of supplying gas, the complainant, in that event, ought to have the

Therefore the decree is reversed with posing a fine of \$29,000,240 on the Standard directions to dismiss the bill without preju-

STOCKS BREAK ON THE NEWS.

Holders Throw Over Other Securities. Not since Judge Landis imposed the \$29,000,000 Standard Oil fine (now finally dismissed to limbo) has Wall Street been so surprised over any market development as was the case yesterday when news of the decision in the Consolidated Gas case came off the wire. The company had scored so often in the lower courts, its contentions had been upheld so stoutly by the Circuit Court of Appeals and its full return on the present value of its propofficers and attorneys seemed so confident that the entire financial community considered a victory for the company to be a foregone conclusion.

Speculators and investors bought the stock and kept buying it until its price advanced from 74-its low mark in the panic-up to 16714. The greatest activity in the stock followed the decision of the Circuit Court of Appeals holding the 80 cent gas law to be unconstitutional. The Street was not only certain of a favorable decision by the court but banked on a handsome extra dividend to follow

the decision. The stock opened yesterday at 165% and was selling at 164 when the news of the decision reached the floor. Brokers were dazed for an instant, but soon made for the Gas post in a rush to unoad that was a reminder of panic times. The stock under this first selling declined from 164 to 158, but the buying power was still considerable and this decline of 6 points was more moderate and gradual that the subsequent break.

When the stock was at 158 a broker tried to execute an order for the sale of a big block. The best bid he could get was 157 for 300 shares. The next sale was 100 shares at 156 and there then followed other 100 share lots at 155, 154 and 153. From this point on another sale of but 100 shares the price broke wide open New Jersey, should pay the fine, the and the lot went at 146%, a break of 6% New Jersey, should pay the line, the points between sales., There were then Standard of Indiana being capitalized points between sales., There were then sales at 1000,000, and notwithstanding sales of 500 shares at 146 and 100 shares at 145, but the next transaction witnessed another wide break, 1,000 shares going at 140. From this point there was decline to 138, the low price of the day, and then a rally to a closing figure of 141. The net loss was 231/4 points on trans-

actions of 52,900 shares. On the announcement of the decision most of the other active stocks declined sharply, Union Pacific being particularly weak, but there was a substantial rally on the announcement of the decision in the Standard Oil case.

\$9,000,000 TO PAY BACK? Average of \$23 Aplece for \$90,000 Gas

Consumers in this County. A fund of more than \$9,000,000, being the 20 cent excess per 1,000 feet collected by the gas companies in Manhattan and The Bronx pending the decision, and paid into the United States Court, is now, if the court so directs, to be returned to some 390,000 customers of the companiesan average of \$23 apiece. Just when they will get it back and how has not been announced. Meanwhile the prudent will look up their receipted gas bills. It may or may not be necessary for them to for a car. produce these receipts in order to recover the excess payments and prove their identity. The Corporation Counsel expects that they will get their rebates. with comparatively little difficulty. The lawyers for the gas company are silent on the topic. A direction of some kind is expected from the court in due order.
The latest figures United States Commissioner Shields has of the deposits is:

Consolidated Gas Company.
Mutual Gas Company.
New Amsterdam Gas Company.
Standard Gas Company.
Central Union Gas Company.
Northern Union Gas Company. 711,369 36 274,292 88

\$9,038,629 02 Total..... There is more than this, for the pass books have not come back from the January 1 balancing and interest on the several detained amounts is to be computed, some of them since May, 1906. The banks that hold the money are the Citizens, the Hanover, the Bank of Commerce, the Mechanics, the National City, the Seaboard National and the Importers and Traders.

GAS CO. TAKES IT COOLLY. Thinks It Can Show the Rate Unfair-City Claims a Victory.

Assistant Corporation Counsel William P. Burr, who has borne the brunt of the legal battle on behalf of the city, said yesterday that the result was a splendid victory for State and city. He is of the opinion that the company will accept the decision and will not go to court again; that it will refund the excess collections under directions of the court yet to be announced, and that it will supply gas at 80 cents hereafter.
On behalf of the Consolidated Gas Com-

pany this statement was issued: James M. Beck of the law firm of Shear

man & Sterling, who with John A. Garver and Charles F. Matthewson argued the case for the gas company, in reply to a question as to the effect of the decision "Discussion of the decision is somewhat

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The most complete shop for tourists' requisites in all New York we believe to be ours, and among all its varied contents the most noteworthy are our Wardrobe Trunks.

Ingenuity has devised nothing so clever for the travelers' use as these strong, compact trunks built to contain in smallest compass all the wearing apparel needful even for a lengthy sojourn. We direct special attention to the exceptional merits of our

"Mendel" Wardrobe Trunks

For women at \$65, for men at \$75.

Interior arrangement and durability are unsurpassed; the women's model accommodates 12 to 16 gowns and 18 waists; a series of drawers with the necessary compartments for packing various articles of wear; the men's model is admirably arranged for the requisites of masculine attire.

Broadway Saks & Company 34th Street

erty and is not restricted to its original cost. The Court also declared the pressure provision to be unconstitutional and has invalidated the cumulative penalties. "With these important rulings definitely settled in the gas company's favor it is given the opportunity to establish by the

actual results of the operation of its works since the eighty cent gas bill was passed that such rate yields less than 6 per cent. upon the just value of its property, and the company entertains no doubt as to its ability to establish this to the satisfaction of the Mr. Burt expressed doubt of the company going into court again after a trial of 30 cent gas. Still, he admitted, it has that option. Ordinarily, said Mr. Burr, a decision of this court in such a case would be regarded as final, and for this reason the court had especially given its decision "without prejudice," so that the company might, if it should prove under actual experience that it could not carry on business at a reasonable profit under the law, have the privilege of coming into court again and proving the facts by actual experience of operation under the law. Court and the public.

premature until we have the full text of the opinion. It is, however, obvious that the Supreme Court has sustained the Consolidated Gas Company in most of its principal contentions. Thus the Supreme Court holds that the gas company is entitled to a return upon its franchises and simply questions the method of their valuation.

"As the decision expressly permits further proceedings to deternime the confiscatory character of the law the Consolidated Gas Company will have further opportunity to establish the true value of its franchises.

"The Court holds that the gas company is entitled to a full return of 6 per cent. upon the value of its property, as contended for by it. The city and State had urged that the Federal courts were powerless to interfere if the law permitted at least 3 to 5 per cent. but the Supreme Court leaves no doubt that if in the subsequent proceedings which it permits the company can establish that it received less than 6 per cent. but the statute would be unconstitutional.

"Another point of great importance is the ruling that the company is entitled to a full return on the present value of its property and is not restricted to its original cost. The Court also declared the pressure

business would normally still further increase.

As to the Court's having pronounced those provisions of the law prescribing the penalties unconstitutional because excessive, Mr. Burr said that that merely meant that the law in its main principle having been found unconstitutional, the Legislature was entitled to enact other provisions governing penalties.

The matter just determined was a proceeding in equity brought by the gas company to restrain the enforcement of the eighty cent law, which was passed early in 1906, effective May 1 of that year as a result largely of the efforts of Charles E. Hughes as counsel to the Armstrong committee. The master in chancery held the law to be unconstitutional. Judge Hough decided that with eighty cent gas the return to the company would be reduced below 6 per cent., and that this amounted to confiscation. The city and the State appealed.

Easy Job for Brooklyn Robbers. The little jewelry store of Louis Wakthe law, have the privilege of coming into court again and proving the facts by actual experience of operation under the law.

The company, Mr. Burr said, had valued its property at \$100,000,000. The Master in Chancery before whom the first hearings

# Coffee and Biliousness

Interfere with business

## Quit the Business

If you feel "hurt about it."

One time a man thought it all over and finally decided that he would rather have his head clear and his mind keen for business than to "enjoy" the "dumps" half the time.

So he quit the coffee, even the "one cup a day."

The biliousness quit itself.

So did a certain sick feeling about the heart when he hurried

Being fond of a good hot drink for breakfast he took on POSTUM, the liquid food coffee. It came to his table with the colour of the strongest French drip coffee, and a little rich cream turned it to a rich golden brown. The flavour was distinct, but had the soft pleasing "tang" of mild high grade Java.

So the change was easy. In a few days he told himself how much fun it is to be wellbrisk, snappy, and keen-"the greatest fun on earth." Of course, 'There's a Reason.'

Coffee (with many folks) congests the liver, producing biliousness by keeping in, instead of throwing off, the wastes of the body. They turn to poisons, and the whole body is more or less affected. When the cause (coffee) is withdrawn, Nature slowly tries to right the wrong. It helps, to drink Postum, for it contains in liquid form certain parts of wheat which Nature uses to rebuild broken down nerve centres.

These are truths to those who know dietetics. Every man can ignore the theories and yet convince himself by personal test. That's the surest way to find out why

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